

Message Text

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TO SECSTATE WASHDC 7683

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EMBASSY PARIS PLEASE PASS IRS REP

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TAGS: EFIN, PFOR, US, SZ

SUBJECT: PROPOSAL ON AMENDMENT OF US- SWISS ESTATE TAX TREATY
TO ENCOURAGE INCREASED INVESTMENT IN US SECURITIES

SUMMARY. EMBASSY PROPOSES THAT USG CONSIDER AMENDMENT
OF 1951 US- SWISS ESTATE TAX TREATY AS MEANS OF ENCOURAG-
ING SWISS INVESTMENT IN US SECURITIES AS CONTRIBUTION
TO IMPROVEMENT IN US BALANCE OF PAYMENTS. ELIMINATION
OF TAXES OF THIS NATURE HAS BEEN SUGGESTED ON NUMBER
OF OCCASIONS IN RECENT YEARS. HIGH SWISS PORTFOLIO
INVESTMENT ABROAD, LACK OF SIMILAR ESTATE TAX BY
OTHER ADVANCED COUNTRIES, DIFFICULTY OF ENFORCEMENT,
AND PROBABLE MINIMAL ADVANTAGE TO US FISCAL REVENUES
ARGUE IN FAVOR OF ELIMINATION OF ESTATE TAX ON SWISS
RESIDENTS OR CITIZENS. LIKELY IMMINENT CONCLUSION OF
US- SWISS NEGOTIATIONS ON JUDICIAL ASSISTANCE TREATY MAKE
IT PROPITIOUS TO RAISE INFORMALLY REVISION OF ESTATE
TAX TREATY WITH SWISS TAX ADMINISTRATION LATER THIS
MONTH. END SUMMARY.

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1. NOW THAT TALKS ON A US- SWISS TREATY ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS MAY BE APPROACHING AN END, EMBASSY PROPOSES THAT USG CONSIDER AMENDMENT OF 1951 US- SWISS ESTATE TAX TREATY TO REMOVE TAX IMPEDIMENT TO INVESTMENT IN US SECURITIES BY SWISS CITIZENS OR RESIDENTS. OBJECT WOULD BE TO REMOVE DETERRENT TO INCREASED PORTFOLIO INVESTMENT IN US SECURITIES AS A CONTRIBUTION TO IMPROVEMENT IN US BALANCE OF PAYMENTS. UNDERSTAND SIMILAR EXEMPTION NEGOTIATED WITH THE NETHERLANDS. PROPOSAL IS CONSISTENT WITH ADMINISTRATIONS' S INTEREST IN ELIMINATION OF MEASURES THAT IMPEDE CAPITAL FLOWS TO US, CONGRESSMAN MILLS' INTEREST IN SUSPENSION OF TAXES AFFECTING FOREIGN INVESTMENT IN US SECURITIES, AND VIEW EXPRESSED BY US CHAMBER OF COMMERCE MISSION TO EUROPE LAST FALL THAT US MUST REASSESS POLICIES AND PRACTICES WHICH MAY DISCOURAGE FOREIGNERS FROM PURCHASE OF US SECURITIES. FOWLER TASK FORCE MADE SIMILAR RECOMMENDATION IN 1964 REPORT ON " PROMOTING INCREASED FOREIGN INVESTMENT IN U. S. CORPORATE SECURITIES."

2. ARGUMENTS IN FAVOR OF RENEGOTIATION OF US- SWISS TAX TREATY TO ELIMINATE US ESTATE TAXES ON INTANGIBLE PROPERTY OF NONRESIDENT ALIEN DECEDENTS INCLUDE FOLLOWING:

A. ALTHOUGH NO OFFICIAL DATA ARE COMPILED, AND PRIVATE DATA MAY BE WIDE OF THE MARK, IT HAS BEEN ESTIMATED THAT FOREIGN PORTFOLIO INVESTMENT BY SWISS BANKS FOR SWISS CITIZENS OR RESIDENTS (WHETHER PRIVATE OR LEGAL PERSONS) MAY BE IN EXCESS OF \$2.5 BILLION. ADDITION OF INVESTMENTS MADE BY CITIZENS OR RESIDENTS OUTSIDE SWISS BANKING SYSTEM WOULD SWELL FIGURE. EVEN AFTER ALLOWING FOR UPWARD MARGIN OF ERROR, SWITZERLAND IS ONE OF WORLD' S MOST SIGNIFICANT SOURCES OF FUNDS FOR PORTFOLIO INVESTMENT.

B. MOST ADVANCED COUNTRIES EXCLUDE OR REDUCE ESTATE TAX LIABILITY OF PERSONS WHO ARE NEITHER CITIZENS NOR RESIDENTS IN LEVYING ESTATE TAX. US PRACTICE IS AN ANOMALY WHICH TENDS TO MAKE SWISS PORTFOLIO INVESTMENT IN THIRD COUNTRIES OPTICALLY IF NOT ACUTALLY MORE ATTRACTIVE.

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TIVE.

C. PRESENT US SYSTEM OF TAXATION OF ESTATES OF NONRESIDENT ALIEN DECEDENTS IS OPEN TO ABUSE EITHER THROUGH IGNORANCE THAT ESTATE TAX MUST BE PAID OR BY ESTABLISHMENT OF A HOLDING COMPANY, INCORPORATED IN SWITZERLAND, TO AVOID PAYMENT OF US ESTATE TAX.

FOWLER REPORT TERMED THIS " AN UNSOUND SITUATION WHICH DIRECTLY DETERS INVESTMENT IN US AND SIGNIFICANTLY WORSENS OVER- ALL IMAGE OF THIS COUNTRY AS A DESIRABLE PLACE TO INVEST." INCREASING NUMBER OF US SHARES QUOTED ON FOREIGN EXCHANGES FURTHER COMPLICATES ENFORCEMENT OF US ESTATE TAX LAWS AND REGULATIONS.

D. UNDERSTAND THAT REVENUES UNDER TREATY ARE NOT LARGE. IT IS PROBABLE THAT ALL ESTATE TAXES DUE US UNDER US- SWISS TREATY ARE NOT PAID, AND KNOWLEDGE OF THIS CIRCUMSTANCE CONTRIBUTES TO BREAKDOWN OF TAX-PAYER INTEGRITY, ALL THE MORE SO WHEN TAXPAYER IS NEITHER US CITIZEN NOR RESIDENT AND EVEN MAY NEVER HAVE VISITED US OR DEVELOPED AN EMOTIONAL TIE WITH OUR COUNTRY.

3. DURING FORMATIVE NEGOTIATIONS ON PROPOSED US- SWISS JUDICIAL ASSISTANCE TREATY, EMBASSY CONSIDERED IT PREFERABLE NOT TO DEFLECT SWISS ATTENTION FROM BRINGING THESE TALKS TO A SUCCESSFUL END. NOW THAT IT APPEARS TALKS ON JUDICIAL ASSISTANCE TREATY MAY BE COMING TO AN END, EMBASSY BELIEVES IT WOULD BE APPROPRIATE TO RAISE AMENDMENT OF US- SWISS ESTATE TAX TREATY WITH SWISS. INFORMAL TALKS WITH SWISS BANKERS INDICATE THEY WOULD WELCOME US ACTION ON ESTATE TAX, AND US WILLINGNESS TO CONSIDER ELIMINATION OF ESTATE TAX COULD BE USED TO UNDERCUT OPPOSITION OF SWISS BANKERS TO JUDICIAL ASSISTANCE TREATY.

4. EMBASSY EXCLUDES NON- SWISS CITIZENS OR RESIDENTS FROM ITS PROPOSAL ON GROUNDS US INTERESTS ARE BETTER SERVED BY MEASURES TO ENCOURAGE CITIZENS OR RESIDENTS OF THIRD COUNTRIES TO INVEST DIRECTLY IN US SECURITIES MARKETS RATHER THAN THROUGH SWISS BANKS. MOREOVER, EMBASSY SEES NO POINT IN GRANTING EXEMPTION FROM ESTATE LIMITED OFFICIAL USE

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TAX UNDER US- SWISS TREATY IN MANNER THAT COULD BE USED TO BENEFIT RESIDENTS OF COUNTRIES (FOR EXAMPLE, IN LATIN AMERICA) WITH WHICH US HAS NO ESTATE TAX TREATIES AND WHICH LEVY ESTATE TAX ON US CITIZENS.

5. ACTION REQUESTED: EMBASSY UNDERSTANDS IRS REPS WILL VISIT SWITZERLAND LATE THIS MONTH ON RAY RYAN CASE. URGE THAT THEY BE AUTHORIZED TO DISCUSS INFORMALLY WITH DR. KURT LOCHER, DIRECTOR OF SWISS TAX ADMINISTRATION, AMENDMENT OF US- SWISS ESTATE TAX TREATY TO REMOVE IMPEDIMENT TO INVESTMENT IN US SECURITIES FROM US TAX ON INTANGIBLE PERSONAL PROPERTY OF NONRESIDENT SWISS DECENDENTS. IF TREASURY OR IRS OFFICIALS APPROPRIATE TO DISCUSS ESTATE TAX TREATY WILL NOT VISIT

SWITZERLAND ON RYAN CASE, EMBASSY SUGGESTS THAT IT BE
AUTHORIZED INFORMALLY TO EXPLORE MATTER.
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